

REMARKS / ARGUMENTS**1. Status of Application**

This application originally included claims 23-38. In the June 2, 2004 Office Action, the Examiner required restriction to one of Group I (claims 23-36) directed to a breast prosthesis and Group II (claims 23-35 and 37-38) directed to balloon catheters. By this response, claims 23-36 are elected with traverse, claims 37-38 are withdrawn from consideration, and new claims 39-44 are currently added for the Examiner's consideration. Thus, this application now includes original claims 23-36 and newly added claims 39-44.

2. Discussion**a. Election (With Traverse) in Response to Restriction Requirement**

The Applicant has elected to prosecute claims 23-36, in response to the restriction requirement imposed in the Office Action and add new claims 39-44 to more fully cover the scope of the claimed invention.

The Applicant respectfully submits that Group I and Group II claims are not unrelated and have not met the criteria of distinctness as required to warrant a restriction. *See* MPEP § 806.05. The Applicant also respectfully notes that the specification discloses related areas including a breast prosthesis and balloon catheter. Application, page 2, lines 13-16. Furthermore, the Examiner has restricted the applicant into two groups of claims that claim dependence from the same independent claim, claim 23 (now amended). Office Action at 2. Claim 23 has now been placed in a position of allowance and claim 23 is a generic claim that links the two species embraced by the Group I and Group II claims. *See* MPEP § 809.02.


However, Applicant respectfully submits that original claims 37-38 have been withdrawn without prejudice to presenting these claims in a divisional or continuation application. In addition, the election of claims 23-36 is made with traverse, and Applicant reserve the right to reintroduce claims 37-38, in original or amended form, in view of the later prosecution of this application.

3. Conclusion

It is respectfully submitted that the present application is in condition for allowance and prompt notification thereof is requested. If the prosecution of this application can be advanced by a telephone conference, the Examiner is requested to call the undersigned at (212) 530-5363.

Respectfully submitted,

Dated: 28 June, 2004


James R. Klaiber
Registration No. 41,902
Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005-1413
Telephone: (212) 530-5363
Facsimile: (212) 530-5219